

COURT OF JUSTICE

AMENDMENTS TO THE RULES OF PROCEDURE OF THE COURT OF JUSTICE

of 28 November 2000

THE COURT,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Having regard to the Treaty establishing the European Community, and in particular the third paragraph of Article 245 thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community, and in particular Article 55 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the third paragraph of Article 160 thereof,

Whereas:

- (1) In certain particularly urgent cases, the Court should be able to give its ruling with the minimum of delay, and provision should be made for an expedited procedure in such cases.
- (2) In order to reduce the length of proceedings in direct actions, the time-limit for intervention should be shortened.
- (3) In order to adapt communications between the Court and the parties and other persons concerned to modern communication technology, rules should be laid down regarding the use of, in particular, telefaxes for the transmission of documents and consequential amendments should be made to the provisions concerning extensions, on account of distance, of prescribed time-limits.
- (4) It is necessary, in the light of experience, to clarify the wording of the provision relating to the lodging of a reply and a rejoinder in appeal proceedings,

With the unanimous approval of the Council given on 16 November 2000,

Article 1

The Rules of Procedure of the Court of Justice of the European Communities adopted on 19 June 1991⁽¹⁾, as amended on 21 February 1995⁽²⁾, 11 March 1997⁽³⁾ and 16 May 2000⁽⁴⁾, shall be amended as follows:

- 1) The following paragraph shall be added to Article 37:

'6. Without prejudice to the provisions of paragraphs 1 to 5, the date on which a copy of the signed original of a pleading, including the schedule of documents referred to in paragraph 4, is received at the Registry by telefax or other technical means of communication available to the Court shall be deemed to be the date of lodgment for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1 above, is lodged at the Registry no later than ten days thereafter.'

- 2) The following subparagraph shall be inserted in Article 38(2) as the second subparagraph:

'In addition to, or instead of, specifying an address for service as referred to in the first subparagraph, the application may state that the lawyer or agent agrees that service is to be effected on him by telefax or other technical means of communication.'

and the present second subparagraph shall become the third subparagraph.

In the third subparagraph, the words 'with these requirements' shall be replaced by the words 'with the requirements referred to in the first and second subparagraphs', and '(1)' shall be inserted immediately after 'Article 79'.

⁽¹⁾ OJ L 176, 4.7.1991, p. 7, with corrigendum (OJ L 383, 29.12.1992, p. 117).

⁽²⁾ OJ L 44, 28.2.1995, p. 61.

⁽³⁾ OJ L 103, 19.4.1997, p. 1, with corrigendum (OJ L 351, 23.12.1997, p. 72).

⁽⁴⁾ OJ L 122, 24.5.2000, p. 43.

3) Article 44 shall be replaced by the following:

'Article 44

1. The President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Court, either

- (a) after the rejoinder has been lodged, or
- (b) where no reply or no rejoinder has been lodged within the time-limit fixed in accordance with Article 41(2), or
- (c) where the party concerned has waived his right to lodge a reply or rejoinder, or
- (d) where the expedited procedure referred to in Article 62a is to be applied, when the President fixes a date for the hearing.

2. The preliminary report shall contain recommendations as to whether a preparatory inquiry or any other preparatory step should be undertaken and whether the case should be referred to a Chamber. It shall also contain the Judge-Rapporteur's recommendation, if any, as to the possible omission of the oral part of the procedure as provided for in Article 44a.

The Court shall decide, after hearing the Advocate General, what action to take upon the recommendations of the Judge-Rapporteur.

3. Where the Court orders a preparatory inquiry and does not undertake it itself, it shall assign the inquiry to the Chamber.

Where the Court decides to open the oral procedure without an inquiry, the President shall fix the opening date.'

4) The following shall be inserted after Article 62:

'CHAPTER 3a

EXPEDITED PROCEDURES

Article 62a

1. On application by the applicant or the defendant, the President may exceptionally decide, on the basis of a recommendation by the Judge-Rapporteur and after hearing the other party and the Advocate General, that a case is to be determined pursuant to an expedited procedure derogating from the provisions of these Rules, where the particular urgency of the case requires the Court to give its ruling with the minimum of delay.

An application for a case to be decided under an expedited procedure shall be made by a separate document lodged at the same time as the application initiating the proceedings or the defence, as the case may be.

2. Under the expedited procedure, the originating application and the defence may be supplemented by a reply and a rejoinder only if the President considers this to be necessary.

An intervener may lodge a statement in intervention only if the President considers this to be necessary.

3. Once the defence has been lodged or, if the decision to adjudicate under an expedited procedure is not made until after that pleading has been lodged, once that decision has been taken, the President shall fix a date for the hearing, which shall be communicated forthwith to the parties. He may postpone the date of the hearing where the organisation of measures of inquiry or of other preparatory measures so requires.

Without prejudice to Article 42, the parties may supplement their arguments and offer further evidence in the course of the oral procedure. They must, however, give reasons for the delay in offering such further evidence.

4. The Court shall give its ruling after hearing the Advocate General.'

5. The present wording of Article 79 shall become Article 79(1) and the following paragraph shall be added:

'2. Where, in accordance with the second subparagraph of Article 38(2), the addressee has agreed that service is to be effected on him by telefax or other technical means of communication, any procedural document other than a judgment or order of the Court may be served by the transmission of a copy of the document by such means.

Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in paragraph 1 of this article. The addressee shall be so advised by telefax or other technical means of communication. Service shall then be deemed to have been effected on the addressee by registered post on the tenth day following the lodging of the registered letter at the post office of the place where the Court has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or other technical means of communication, that the document to be served has not reached him.'

6) Article 81(2) shall be replaced by the following:

'2. The prescribed time-limits shall be extended on account of distance by a single period of ten days.'

7) Article 93 shall be amended as follows:

(a) in the first subparagraph of paragraph 1, the words 'three months' shall be replaced by the words 'six weeks';

(b) the following paragraph shall be added:

'7. Consideration may be given to an application to intervene which is made after the expiry of the period prescribed in paragraph 1 but before the decision to open the oral procedure provided for in Article 44(3). In that event, if the President allows the intervention, the intervener may, on the basis of the Report for the Hearing communicated to him, submit his observations during the oral procedure, if that procedure takes place.'

8) The second subparagraph of Article 115(2) shall be replaced by the following:

'Article 37 and Article 38(2) and (3) of these Rules shall apply.'

9) Article 117 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. The appeal and the response may be supplemented by a reply and a rejoinder where the President, on application made by the appellant

within seven days of service of the response, considers such further pleading necessary and expressly allows the submission of a reply in order to enable the appellant to put forward his point of view or in order to provide a basis for the decision on the appeal. The President shall prescribe the date by which the reply is to be submitted and, upon service of that pleading, the date by which the rejoinder is to be submitted.'

(b) paragraph 3 shall be repealed.

10) Article 121 shall be replaced by the following:

'Article 121

The report referred to in Article 44(2) shall be presented to the Court after the pleadings provided for in Article 115(1) and, where appropriate, Article 117(1) and (2) have been lodged. Where no such pleadings are lodged, the same procedure shall apply after the expiry of the period prescribed for lodging them.'

Article 2

These amendments to the Rules of Procedure, which are authentic in the languages mentioned in Article 29(1) of these Rules, shall be published in the *Official Journal of the European Communities*. They shall enter into force on the first day of the second month following their publication.

Done at Luxembourg, 28 November 2000.
